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SENATE BILL 80

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Howie C. Morales

AN ACT

RELATING TO ELECTIONS; CONFORMING CERTAIN ELECTION PROCEDURES WITH FEDERAL LAW; CHANGING THE DEADLINE FOR ACCEPTANCE OF MAILED VOTER REGISTRATION FORMS; PROVIDING PROCEDURES FOR UPDATING AND PURGING VOTER FILES; PROVIDING FOR EXPEDITED SPECIAL CONGRESSIONAL ELECTIONS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 66, as amended) is amended to read:

"1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF REGISTRATION--CLOSE OF REGISTRATION--FEDERAL QUALIFIED ELECTORS AND OVERSEAS VOTERS--LATE REGISTRATION.--

A. For qualified electors other than federal qualified electors or overseas voters, the following provisions shall apply:

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1 (1) the county clerk shall receive
2 certificates of registration at all times during normal working
3 hours, except that the clerk shall close registration at
4 5:00 p.m. on the twenty-eighth day immediately preceding any
5 election at which the registration books are to be furnished to
6 the precinct board;

7 (2) registration shall be reopened on the
8 Monday following the election;

9 (3) for purposes of a municipal or school
10 election, the registration period for those precincts within
11 the municipality or school district is closed at 5:00 p.m. on
12 the twenty-eighth day immediately preceding the municipal or
13 school election and is opened again on the Monday following the
14 election;

15 (4) during the period when registration is
16 closed, the county clerk shall receive certificates of
17 registration and other documents pertaining thereto but shall
18 not file the certificate of registration in the registration
19 book until the Monday following the election, at which time a
20 voter [~~identification card~~] information document shall be
21 mailed to the registrant at the address shown on the
22 certificate of registration;

23 (5) when the twenty-eighth day prior to any
24 election referred to in this section is a Saturday, Sunday or
25 legal holiday, registration shall be closed at 5:00 p.m. of the

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1 next succeeding regular business day for the office of the
2 county clerk; and

3 (6) the county clerk shall accept for filing
4 any certificate of registration that is subscribed and dated on
5 or before the twenty-eighth day preceding the election and:

6 (a) received by the county clerk before
7 5:00 p.m. on the Friday immediately following the close of
8 registration; [~~the county clerk shall accept for filing any]~~

9 (b) mailed [~~certificate of registration]~~
10 and postmarked not less than twenty-eight days prior to any
11 election referred to in this section; [~~and received by 5:00~~
12 ~~p.m. on the Friday immediately following the close of~~
13 ~~registration. The county clerk shall accept for filing any~~
14 ~~certificate of registration]~~ or

15 (c) accepted at a state agency
16 designated pursuant to Section 1-4-5.2 NMSA 1978 [~~not later~~
17 ~~than twenty-eight days prior to any election].~~

18 B. For federal qualified electors and overseas
19 voters, the county clerk shall accept a certificate of
20 registration by electronic transmission from a voter qualified
21 to apply for and vote by absentee ballot in the county if the
22 transmission is received before 5:00 p.m. on the Friday
23 immediately preceding the election."

24 Section 2. Section 1-4-28 NMSA 1978 (being Laws 1975,
25 Chapter 255, Section 46, as amended) is amended to read:

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1 "1-4-28. CANCELLATION OF REGISTRATION--~~[CERTAIN FAILURE~~
2 ~~TO VOTE--SUSPENSION]~~ CHANGE OF RESIDENCE--NOTICE.--

3 ~~[A. The failure of a voter to vote in at least one~~
4 ~~statewide or local election in a four-year period after being~~
5 ~~placed on an inactive voter list shall be grounds for~~
6 ~~cancellation of registration by the board of registration.~~

7 ~~B. The secretary of state shall prescribe~~
8 ~~procedures for ascertaining whether a voter has voted at least~~
9 ~~once in the last four-year period, establishing an inactive~~
10 ~~voter list and providing notice of inactive status to voters on~~
11 ~~the inactive voter list.~~

12 ~~C. After a determination that a voter has~~
13 ~~apparently not voted, the board of registration shall suspend~~
14 ~~the certificate of registration for sixty days.~~

15 ~~D. The county clerk, upon direction of the board of~~
16 ~~registration, shall mail a notice to the voter at his residence~~
17 ~~address shown on the certificate of registration.~~

18 ~~E. The certificate of registration shall be~~
19 ~~canceled if, after being placed on the inactive voter list, the~~
20 ~~voter fails to vote at least once in any statewide or local~~
21 ~~election in the ensuing four-year period and the voter fails to~~
22 ~~respond to notification of intended cancellation.]~~

23 A. The secretary of state, county clerks and boards
24 of registration, in compliance with the federal National Voter
25 Registration Act of 1993, shall remove from the official list

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1 of eligible voters the names of voters who are ineligible to
2 vote due to change of residence.

3 B. The secretary of state shall issue rules for the
4 cancellation of voter registrations consistent with the federal
5 National Voter Registration Act of 1993."

6 Section 3. Section 1-12-69 NMSA 1978 (being Laws 1977,
7 Chapter 222, Section 72, as amended) is amended to read:

8 "1-12-69. [~~EMERGENCY SITUATIONS~~] DISPOSITION OF
9 [~~EMERGENCY~~] PAPER BALLOTS.--

10 ~~[A. Forty-five days after adjournment of the state~~
11 ~~canvassing board, each county clerk in the presence of the~~
12 ~~district judge or his designated representative shall open all~~
13 ~~ballot boxes of the precincts for which he has received no~~
14 ~~notice by registered mail of contest or no judicial inquiry,~~
15 ~~and he shall take and burn or shred the contents thereof.~~

16 ~~B. On those ballot boxes]~~ A. Paper ballots marked
17 by voters and all records related to voting in any election in
18 which a federal candidate appears on the ballot shall be
19 retained and preserved for a period of twenty-two months from
20 the date of the election.

21 B. Paper ballots marked by voters and all records
22 related to voting in any election in which no federal candidate
23 appears on the ballot shall be retained and preserved for
24 forty-five days after adjournment of the state or county
25 canvassing board, whichever is later.

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1 C. In precincts where a recount or judicial inquiry
2 or inspection of contents is sought, the county clerk shall
3 hold ~~[them and their contents]~~ ballots marked by voters and
4 records related to voting in those precincts intact subject to
5 order of the district court or other authority having
6 jurisdiction of the contest or inspection.

7 D. Paper ballots marked by voters and records
8 related to voting in any election shall only be destroyed
9 pursuant to rules promulgated by the state records center for
10 destruction of public records.

11 E. The state records center is authorized to
12 receive for storage and destruction paper ballots marked by
13 voters and records related to voting in any election in which a
14 federal candidate appears on the ballot.

15 ~~[G.]~~ F. At least three days prior to ~~[the opening~~
16 ~~of the ballot boxes and burning or shredding of their contents]~~
17 the destruction by the county clerk of paper ballots marked by
18 voters and records related to voting, the county clerk shall
19 notify the county ~~[chairman]~~ chair of each political party
20 participating in the election of the time, place and date
21 thereof. The ~~[chairman]~~ chair of each political party may be
22 present or may have ~~[his]~~ the chair's accredited representative
23 present."

24 Section 4. Section 1-15-18.1 NMSA 1978 (being Laws 1983,
25 Chapter 232, Section 16) is amended to read:

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1 "1-15-18.1. UNITED STATES REPRESENTATIVE--VACANCY.--

2 A. Ten days after a vacancy occurs in the office of
3 United States representative, the governor shall, by
4 proclamation, call a special election to be held not less than
5 eighty-four nor more than ninety-one days after the date of the
6 vacancy for the purpose of filling the vacancy, except as
7 provided in [~~Subsection E~~] Subsections E and F of this section.

8 B. Upon the issuance of the governor's
9 proclamation, each qualified political party may nominate in
10 the manner provided by the rules of that party a candidate to
11 fill the vacancy in the office of United States representative;
12 provided that such nomination is certified to the secretary of
13 state by the state [~~chairman~~] chair of that party no later than
14 5:00 p.m. on the fifty-sixth day preceding the date of the
15 special election.

16 C. Declarations of independent candidacy to fill
17 the vacancy in the office of United States representative and
18 nominating petitions pertaining thereto shall be filed with the
19 secretary of state no later than 5:00 p.m. on the fifty-sixth
20 day preceding the date of the special election.

21 D. Special elections called for the purpose of
22 filling a vacancy in the office of United States representative
23 shall be conducted in accordance with the provisions of the
24 Election Code; provided, however, if there is a conflict
25 between this section and other provisions of the Election Code,

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1 the provisions of this section shall control.

2 E. If a vacancy occurs in the office of United
3 States representative after the date of the primary election
4 and before the date of the general election of that same year,
5 [~~such~~] the vacancy shall be filled at that general election of
6 the same year. Candidates seeking the office of United States
7 representative in [~~such~~] that general election for the next
8 succeeding term shall be deemed to be candidates for the
9 unexpired term as well, and the candidate elected shall take
10 office upon the certification of the election results.

11 F. If a vacancy occurs in the office of United
12 States representative when there are more than one hundred
13 vacancies in the United States house of representatives and
14 there are more than seventy-five days before a regularly
15 scheduled election or previously scheduled special election,
16 then:

17 (1) the governor shall, by proclamation, call
18 a special election to be held not more than forty-nine days
19 after the vacancy is announced;

20 (2) each qualified political party may
21 nominate in the manner provided by the rules of that party a
22 candidate to fill the vacancy in the office of United States
23 representative; provided that such nomination is certified to
24 the secretary of state by the state chair of that party no
25 later than 5:00 p.m. on the tenth business day following

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1 announcement of the vacancy; and
2 (3) declarations of independent candidacy to
3 fill the vacancy in the office of United States representative
4 and nominating petitions pertaining thereto shall be filed with
5 the secretary of state no later than 5:00 p.m. on the twentieth
6 day following announcement of the vacancy."

7 Section 5. EMERGENCY.--It is necessary for the public
8 peace, health and safety that this act take effect immediately.

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